

VZCZCXRO3562
OO RUEHDBU RUEHPW
DE RUEHBUL #0354/01 0471817
ZNY CCCCC ZZH
O 161817Z FEB 09
FM AMEMBASSY KABUL
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7404
INFO RUCNAFG/AFGHANISTAN COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 KABUL 000354

SIPDIS

E.O. 12958: DECL: 02/15/2019

TAGS: [PGOV](#) [PREL](#) [AF](#)

SUBJECT: KARZAI AND OPPONENTS SQUARE OFF ON CONTINUITY OF
AUTHORITY ISSUE

Classified By: Ambassador William B. Wood, for reasons 1.4 (b) and (d).

Summary

¶1. (C) First Vice President Massoud declared at a 2/16 Cabinet meeting his intent to resign as of 5/21. He called on President Karzai to do the same, and hand power to a caretaker government until the 8/20 election. Karzai told the Ambassador strongly and categorically that he would not hand power to an interim authority. Karzai asked the international community to show him a way out of this situation. He warned that if the internationals did not convince his opponents to agree to a solution that would ensure continuity of legitimacy,⁸ Karzai would either call for spring elections or convene a traditional Loya Jirga. He set a deadline to achieve a solution at the end of February.

Massoud announcement

¶2. (SBU) First Vice President Ahmad Zia Massoud declared both at a 2/15 public meeting in Panjshir (his home province) and at a 2/16 Cabinet meeting that he planned to resign his position as of 5/21. Citing Article 61 of the Constitution, Massoud argued the government would not exist after 5/21. He called on President Karzai to step down in favor of a caretaker government until the 8/20 election. The Ambassador pointed out that the President had the option to accept VP Massoud's resignation, with no implication for the President's own authority.

Karzai response

¶3. (C) Karzai met the Ambassador later that day. He also invited Supreme Court Chief Justice Azimi, Justice Minister Danesh, FM Spanta and NSA Rassoul. Pol counselor accompanied. Karzai was very upset by Massoud's statement. He attacked the motives of his opponents, claiming they were trying to provoke a constitutional crisis. If there were no solution, on 5/21 his opponents and foreign influences⁸ would call his rule illegitimate, foment civil unrest, and drag the country back to the dark days.⁸ He could not let this situation fester. He wanted a solution by the end of February, or he would act.

¶4. (C) The Ambassador pointed out that none of the opposition's arguments were constitutionally correct. He urged the President to work with Chief Justice Azimi and the opposition to find a political understanding and an agreed constitutional interpretation that would be satisfactory. The United States would accept whatever solution the Afghan political leaders could reach that preserved August 20 elections and constitutional government. The key was to find a political solution between the President and the opposition.

15. (C) Karzai balked. He pointed to the opposition,s reneging on its agreement with Karzai, Azimi and others in April 2008 to set the presidential vote for summer 2009. Karzai said he was fed up with the opposition and argued it was now up to the international community to press his opponents to agree to a solution that would ensure &continuity of legitimacy.8 The Ambassador countered that a domestic political solution required Karzai,s active leadership. The international community could support, but Karzai had to lead.

Option one) early elections

16. (C) Karzai argued he had no choice but to reconsider early elections) the only way he believed the government could comply with the constitution. The Ambassador said that early elections were impossible: an early vote would result in flawed logistics, inadequate security, and questions over the legitimacy of the process. A spring vote would risk the safety of Afghans wishing to vote. A vote in which people were afraid to go to the polls could itself be a source of instability. Karzai acknowledged both risks, but insisted the risk of constitutional crisis and civil unrest was greater. The Ambassador suggested the public might see weakness in Karzai if he walked away so quickly from his public statement in support of the 8/20 date (with SR Holbrooke on 2/15) in response to Massoud,s declaration. Finally, the Ambassador cited the legal principle that an obligation impossible to carry out was not binding.

KABUL 00000354 002 OF 003

Option two) Loya Jirga

17. (C) Karzai stated that if the international community could not accept early elections, he would turn to a traditional Loya Jirga. (A constitutional Loya Jirga is impossible because district councils, from which participants would be drawn, are not established around the country.) In response to the Ambassador,s point that a traditional Loya Jirga was unconstitutional, Karzai said that a Loya Jirga is part of &traditional Afghanistan.8 The Constitution should support traditional Afghanistan. The Ambassador pointed out that a Loya Jirga is a consultation mechanism. Karzai should take this principle of consultation and seek a political consultation process with his opponents.

----- -
Option three) Continuity of authority
----- -

18. (C) Another option would be finding a constitutional interpretation that would permit Karzai to remain in office until the 8/20 election. The Ambassador suggested that Chief Justice Azimi could look at the intent in 2004 of the Constitutional drafters that the President would serve a five-year term. The May 21 date in Article 61 was based on an expectation of a spring election, which was subsequently delayed until October 2004. The key would be for Karzai and his opponents to come together and find a political solution and an agreed constitutional interpretation. Karzai was skeptical the opposition would accept, but he did not dismiss the idea.

Option four) Caretaker government

19. (C) Karzai emphatically rejected the proposal of his opponents that he step down in favor of an interim authority during the May 21-August 20 period. He correctly pointed out that this proposal was nowhere to be found in the

Constitution. More strongly, he declared he would not allow this to happen. If his opponents took over, they would then cancel elections. &Foreign elements8 would foment chaos, and the country would &go to the dogs.8 An interim authority would equal no elections, and a failed Afghan state. He urged the Ambassador to convey to Washington the intensity of his feeling on this option.

Way forward

¶10. (C) As he escorted the Ambassador after the meeting, Chief of Staff Daudzai told the Ambassador he would urge Karzai to launch a political dialogue with his opponents. He recognized a political solution was the way out of the stalemate. He urged the international community to pressure the opposition to engage. Both with Daudzai and Karzai, the Ambassador pledged our cooperation in bringing in others in the international community to do the same.

Comment

¶11. (C) Both Karzai and his opponents are engaging in brinksmanship to try to draw us in as part of their respective tactics. Karzai knows early elections are impossible, but puts out the threat because he believes it will motivate us. His opponents are trying to win us over to their idea of a caretaker government. Of the four options: (1) Early elections would be less secure, put the voters at risk, and might trigger unrest or at least dubious results if large numbers of voters were disenfranchised. (2) A loya jirga would be wide open and, given Karzai,s readiness to accept a &traditional8 format, would be believed to tilt in his favor. (3) Continuation of the Karzai government is the easiest solution, but oppositionists fear that he would use the powers of incumbency to tilt the elections. Many have said that they would not object to his remaining in power provided that he did not run for re-election, making the political basis of the dispute clear. (4) Agreement on a caretaker or interim government, with full or circumscribed powers, is not contemplated by the constitution, but might embody one kind of political solution. We will press all sides to get past this problem, to ensure coherent government during the peak fighting season in the summer, and to stick to August 20 elections. We also will avoid, at least for now, taking any position on how to solve the question of who should govern between May 21 and the inauguration of the next

KABUL 00000354 003 OF 003

elected government in the autumn. We also will make clear that anyone who provokes a constitutional crisis during the fighting season will have a lot to answer for, perhaps at the polls. But the Afghan leadership on all sides seems to place more importance on political gain than national security.

WOOD